

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

XTC CABARET (DALLAS) INC. D/B/A	§	
XTC CABARET et al.	§	
Plaintiffs,	§	
	§	
v.	§	Civil Action No. 3:24-CV-00042-B
	§	
THE CITY OF DALLAS TEXAS et al.,	§	
Defendants.	§	

CITY OF DALLAS’S MOTION TO DISMISS AMENDED COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Defendant City of Dallas on behalf of itself and its nonjural subdivision the Dallas Police Department (together, the “City”) files this motion to dismiss Plaintiffs’ First Amended Complaint (“Amended Complaint”). For the reasons set forth in the brief filed in support of this motion the Court lacks jurisdiction over, and should dismiss pursuant to Rule 12(b)(1), the following claims in the Amended Complaint: (1) claims against the nonjural entity, Dallas Police Department; (2) claims for prospective relief brought by Plaintiffs Guillermo Beltran Del Rio Tirado, Dedrick Nero, and Richard Bothmann, Jr. (the “Individual Plaintiffs”) for lack of standing; and (3) Fourth Amendment claims brought by Plaintiffs XTC Cabaret (Dallas), Inc. d/b/a XTC Cabaret (“XTC Cabaret”), Fine Dining Club, Inc. d/b/a Silver City Cabaret (“Silver City Cabaret”), and Coaster Line Coaster Club Inc. d/b/a/ Tiger Cabaret (“Tiger Cabaret,” and collectively with XTC Cabaret and Silver City Cabaret, the “SOB Plaintiffs”) for lack of standing. In addition, claims brought by the Individual Plaintiffs for monetary relief should be stayed until such time as they can show that their criminal proceedings have ended without a conviction, and under *Younger*, the Court should decline to exercise jurisdiction over claims for prospective relief brought by the Individual

Plaintiffs and Tiger Cabaret. Finally, no claim against the City is stated in the Amended Complaint, and therefore, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, all the claims and causes of action in the Amended Complaint should be dismissed with prejudice.

Prayer

The City requests that the Court grant its motion to dismiss in its entirety, or alternatively in part. Specifically, the City requests that, pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure: (1) claims against the nonjural entity, Dallas Police Department, be dismissed; (2) the Individual Plaintiffs' claims for monetary relief be stayed until such time as they can show that their criminal proceedings have ended without a conviction; (3) the prospective relief claims of the Individual Plaintiffs be dismissed for lack of standing, or in the alternative, that the Court decline to exercise jurisdiction over them under *Younger*; (4) that the Court decline to exercise jurisdiction over Tiger Cabaret's prospective relief claims under *Younger*; and (5) that the Court dismiss the SOB Plaintiffs' Fourth Amendment claims for lack of standing. The City further requests that, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Amended Complaint should be dismissed in its entirety and with prejudice as to the City for failure to state a claim and that the Court grant the City such other relief as it shows itself to be justly entitled.

Respectfully submitted,

OFFICE OF THE CITY ATTORNEY
CITY OF DALLAS, TEXAS

TAMMY L. PALOMINO
Dallas City Attorney

By: s/ Kathleen M. Fones
Kathleen M. Fones
Texas Bar No. 24050611
Assistant City Attorney
kathleen.fones@dallas.gov

Stacy Jordan Rodriguez
Texas Bar No. 11016750
Assistant City Attorney
stacy.rodriguez@dallas.gov

Dallas City Hall
1500 Marilla Street 7DN
Dallas, Texas 75201
Telephone – 214/670-3519
Telecopier – 214/670-0622

ATTORNEYS FOR CITY OF DALLAS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was submitted to the Clerk of Court using the CM/ECF System for such electronic filing on this 5th day of April, 2024. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to all parties registered under the CM/ECF System to receive service electronically.

By: /s/ Kathleen M. Fones